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MANILA FOR HOLBROOKE AND OAKLEY. KL FOR ROSENTHAL

E.O. 11652: N/A

TAGS: PDIP, ASEC

SUBJECT: HUMPHREY-HUNG TRIAL

SUMMARY: DEFENSE HAS SUBPOENAED SEVERAL STATE DEPARTMENT EMPLOYEES FOR TESTIMONY IN CASE; PROSECUTION WILL ATTEMPT TO QUASH SUBPOENAS ON MONDAY. SUBPOENAED EMPLOYEES ARE WARREN CHRISTOPHER, RICHARD HOLBROOKE, ROBERT OAKLEY, JAMES ROSENTHAL, GORDON HARVEY AND MARK PRATT; END SUMMARY

1) JUDGE BRYAN HAS GRANTED HUMPHREY-HUNG DEFENSE REQUEST FOR SUBPOENAS DIRECTING FOLLOWING OFFICIALS TO TESTIFY IN DEFENSE'S CASE IN CHIEF: GRIFFIN BELL, WARREN CHRISTOPHER, LIMITED OFFICIAL USE

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RICHARD HOLBROOKE, ROBERT OAKLEY, JAMES ROSENTHAL, GORDON HARVEY, AND MARK PRATT.

2) FOLLOWING ARE VERBATIM EXCERPTS FROM DEFENSE MOTION WHICH REQUESTED JUDGE TO ISSUE SUBPOENAS FOR OAKLEY, ROSENTHAL, PRATT AND HOLBROOKE:

A. OAKLEY AND ROSENTHAL: BOTH THESE MEN CONDUCTED DAMAGE ASSESSMENTS FOR THE STATE DEPARTMENT. IN ADDITION, MR. ROSENTHAL'S MATERIALS WOULD BE INDISPENSABLE TO THE CROSS-EXAMINATION OF WARREN CHRISTOPHER, AS IT APPEARS THAT MR. ROSENTHAL'S CONCLUSIONS LED DIRECTLY TO THE INITIATION OF THIS CASE.

B. PRATT AND HOLBROOKE: EMPLOYEES OF THE DEPARTMENT OF STATE, WHO WOULD BE ABLE TO ANALYZE THE DOCUMENTS IN ISSUE IN THIS CASE AND WOULD TESTIFY, IF THEY WERE TRUTHFUL, ABOUT THE MANY INFORMAL CONTACTS THEY HAD WITH PRESS AND DIPLOMATIC SOURCES IN WHICH THEY PASSED AND RECEIVED DIPLOMATIC INFORMATION CONCERNING THE ATTITUDE OF THE UNITED STATES AND OTHER GOVERNMENTS TOWARD THE SOCIALIST REPUBLIC OF VIETNAM.

3) ON MAY 1, PROSECUTION WILL PRESENT TO JUDGE BRWAN MOTIONS TO QUASH MOST OF THE SUBPOENAS, BASED UPON LACK OF KNOWLEDGE OF SUBPOENAED INDIVIDUALS IN AREAS OF TESTIMONY REQUESTED, ON FACT TESTIMONY SOUGHT IS IRRELEVANT, AND OTHER REASONS, INCLUDING UNAVAILABILITY OF WITNESS. PROSECUTION WILL INFORM JUDGE OF WHEREABOUTS AND PRECISE ITINERARY OF SUBPOENAED WITNESSES.

4) FOR ROSENTHAL: SUBPOENA REQUESTS YOU TO "BRING WITH YOU ALL WRITINGS AND RECORDINGS ... RELATING TO THE QUESTION LIMITED OFFICIAL USE

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WHETHER THE DOCUMENTS IN ISSUE IN THIS CASE AND REVIEWED BY YOU RELATE TO THE NATIONAL DEFENSE, FOREIGN RELATIONS, OR NATIONAL SECURITY." PROSECUTION WILL ALSO ATTEMPT TO QUASH DEFENSE ATTEMPT TO GAIN ACCESS TO DOCUMENTS THROUGH A SUBPOENA, AS BEING AN IMPROPER AVENUE TO OBTAIN DOCUMENTS. YOU SHOULD KNOW, HOWEVER, THAT THE FIRST DAMAGE ASSESSMENT IN THIS CASE WHICH YOU HELPED PREPARE, WAS MADE AVAILABLE TO THE DEFENSE IN THE COURSE OF PRE-TRIAL DISCOVERY PROCEEDINGS BECAUSE OF ITS DIRECT RELEVANCE TO THE INITIATION OF THIS CASE.

5) ON MAY 1, PROSECUTION WILL INFORM JUDGE OF WHEREABOUTS AND PRECISE ITINERARY OF SUBPOENAED WITNESSES. IT IS POSSIBLE THAT JUDGE MAY RULE THAT HOLBROOKE NEED NOT CHANGE PLANS TO APPEAR AT TRIAL, BUT THIS IS BY NO MEANS CERTAIN. OAKLEY WILL BE BACK IN WASHINGTON MAY 3 IN ANY EVENT. WE DO NOT KNOW IF JUDGE WILL REQUIRE ROSENTHAL TO APPEAR BECAUSE OF HIS LOCATION. WE WILL ADVISE YOU AS SOON AS FINAL DECISION IS MADE. VANCE

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